

REMARKS

The last Office Action has been carefully considered.

It is noted that Claims 11, 14, 15, 17, 19, 20, and 24-28 are rejected under 35 USC 102(b) over the U.S. patent to Driggers.

Claims 11, 14-17, 19-21 and 24-28 are rejected under 35 USC 102(b) over the U.S. patent to Matechuk.

At the same time, the Examiner indicated that Claims 22 and 23 were allowed.

The Examiner's indication of allowance of Claims 22 and 23 has been gratefully acknowledged. In connection with this indication, these claims have been retained as they were.

At the same time the Examiner retained Claim 1, the broadest claim on file as it was, and added three additional independent Claims 30, 31 and 32.

It is respectfully submitted that these claims also clearly and patentably distinguish the present invention from the prior art applied by the Examiner.

Turning now to the Examiner's rejection of Claim 11 under 35 USC 102(b) over the patent to Driggers, it is respectfully submitted that the patent to Driggers discloses a flexible line trimmer (10) with a control handle (30) which has a body section (40) connected via a clamping element (62) through a shaft (16) of the trimmer (10) and a handgrip section (36) to control the trimmer (10). Due to vibration damper (60), vibrations from the shaft (16) are decoupled from the handgrip section (36) as shown in Figures 1 and 3 of this reference and explained in column 4, line 14, to column 5, line 12 of the specification. Moreover, the body section (40) has a collar (44) to provide a second connection to the shaft (16), wherein this connection is no clamping connection. Due to this connection the collar (44) and the whole body section (40) with the handgrip section (36) can be pivoted relative to the shaft (16), as shown in this reference in Figures 1 and 3 and explained in column 5, lines 30-45.

In contrast, Claim 11 defines a hand power tool, comprising a housing; at least one handle having at least one gripping part and a mounting part; at least one elastic, vibration damping element and at least one safety element through which said gripping part is connected with said mounting part, said safety element being formed as a rigid component movable during a predetermined operation relative to said gripping part in at least a tilting direction and a longitudinal direction to avoid a passage of vibrations through the safety element. The at least one handle has an

axis, wherein said at least one gripping part, said at least one mounting part, said at least one elastic vibration damping element, and said at least one safety element are arranged coaxially with said axis.

In the patent to Driggers, a safety element which is built out of the collar (44) and legs (46), that connect the collar (44), with a collar (42) arranged for the connection of the handgrip section (36) to the damping member (60), is not moveable during the predetermined operation relative to the handgrip section (16), especially in view of the fact that the hand grip section (36) and the body section (40) are molded integrally with each other, as explained in column 5, lines 8-9 of the reference. In addition, the gripping part or especially the main extension of the hand grip section (36) is not arranged coaxially with the axis (3) of the handle (30). Rather, the hand grip section (36) is arranged perpendicular in respect to the axis (3) of the handle (30).

It is therefore believed to be clear that the patent to Driggers does not teach the new features of the present invention as defined in Claim 11.

The patent to Matechuk discloses a sanding block (10) with a handle (24). To provide a flexible working tool the handle (24) is connected via a rod (22) to the sanding block (10) via a two axis universal

joint with an axle (30), which could be tilted about two axes (32, 36), (as shown in Matechuk, figure 1 and 4 and described in column 3, line 34 to column 4, line 26). Moreover, between the handle (24) and the sanding block (10) a bellows is fastened to provide a guidance for air led from the sanding region to a vacuum source, as shown in figure 1 and described in column 5, lines 27 to 67).

As stated above, the present application deals with a handle having at least one gripping part and a mounting part; at least one elastic vibration damping element and at least one safety element through which said gripping part is connected with said mounting part, said safety element being formed as a rigid component movable during a predetermined operation relative to said gripping part in at least a tilting direction and a longitudinal direction to avoid a passage of vibrations through the safety element.

The patent to Matechuk does not disclose that the handle (24) has an elastic, vibration damping element and at least one safety element. Further, the handle (24) provides no rigid component which is movable during a predetermined operation relative to the handle (24).

It is therefore believed to be clear that the new features of the present invention as defined in Claim 11 are not disclosed in the patent to Matechuk as well.

The new features of the present invention cannot be also derived from these references as a matter of obviousness.

The patent to Driggers teaches to use parts, namely a collar (44) and legs (46), which are formed integrally with a body section (40) and therefore with a handgrip section (36) of a handle (30) as a safety element. The collar (44) is constructed to allow a relative movement of the whole body section (40) with respect to a shaft (16) as shown in Driggers, in figure 1 and described in column 5, lines 7 to 45. Thus, a relative movement of the rigid safety element (44, 46) with respect to the handgrip section (36) as it is claimed in present claim 11 is not intended.

Moreover, even if, as the Examiner does, the clamping member (62) is seen as safety element the requirements of claim 11 are not fulfilled, because the clamping member (62) is not movable during a predetermined operation relative to the handgrip section (36).

In addition, no hint is provided which would have motivated someone skilled in the art to arrange the safety element (44, 46, 62) so

that it is movable in a tilting direction and in a longitudinal direction relative to the handgrip section (36).

As for the patent to Matechuk, it is respectfully submitted that this reference teaches no damping element and safety element for a handle (24) of a sanding block (10). Rather, it discloses to use a flexible bellows (76) to restrict an air passage for air, which transports dust through a hole in the handle (24) to a vacuum source (see Matechuk, Figure 1 and column 5, lines 27 to 52). As it is stated in column 5, lines 53 to 58 the bellows (76) is made of a low density plastic material and therefore, contrary to the Examiner's opinion, the bellows (76) is not capable to be used as a damping element. In addition, once again contrary to the opinion of the Examiner, a rod (22), which fastens the handle (24) to the sanding block (10) could not be seen a safety element. Rather, it represents the mounting element.

Furthermore, even if the rod is seen as a safety element, it is not movable during a predetermined operation relative to the handle (24). Moreover, no motivation is given to embody the rod (22) as being movable relative to the handle (24), especially as this would be against the functional principle of the device of the Matechuk reference, because the mechanism relies on the fact, that the rod (22) is movable with the handle (24) to provide a sufficient guidance for the sanding block (10). Further, a

flange (78) of the sanding block (10) is no mounting part. The connection between the bellows (76) and the block (10) is no connection to secure the bellows and with it the handle (24) to the block (10). The connection is only intended to provide an air tight connection between the bellow and the block (10). Moreover, no motivation is given, which would lead someone skilled in the art at a time the invention was made to integrate a damping element or a safety element.

As for a combination of the references, it is respectfully submitted that because neither Driggers nor Matechuk disclose a rigid safety element which is movable during a predetermined operation relative to a gripping part in at least a tilting direction and a longitudinal direction to avoid a passage of vibrations through the safety element, a person skilled in the art would not get any motivation to use and construct such a safety element.

Therefore, it is believed to be clear that the present invention as defined in Claim 11 should be considered as not obvious from the combination of the patents to Driggers and Matechuk.

Claim 11 should be considered as patentably distinguishing over the art and should be allowed.

Turning now to the new features of the present invention as defined in Claim 30, it is respectfully submitted that the patent to Driggers discloses a handle (30) with a damping element (60) which is arranged circular around a shaft (16) and where a collar (42) of a body section (40) of the handle (30) is arranged around the damping element (60) (see Driggers, figure 3 and column 5, lines 46-53). Thus, two surfaces of the damping element (60), which are either connected to the gripping part or to the mounting part, are arranged in parallel to an axis (3) of the handle (30).

In contrast new Claim 30 defines a handle with an elastic, vibration damping element which has two surfaces, wherein said two surfaces extend perpendicular to the axis of the handle and wherein one surface is connected to said gripping part and the other surface is connected to said mounting part.

As the surface of the damping element (60) which connect the damping element (60) to the collar (42) or a clamping element (62) are arranged in parallel to the axis (3) Claim 30 can be seen as being new over the Driggers reference. Also no motivation is given, which would have led someone skilled in the art to do so.

Therefore, Claim 30 should be considered as patentably distinguishing over the patent to Driggers.

As for the patent to Matechuk, this reference discloses no damping element, and a person skilled in the art would not have obtained any motivation concerning the arrangement of surfaces of this not disclosed damping element. Even if one follows the Examiner's opinion, a bellows (76) has no surfaces which are arranged perpendicular in respect to an axis of the handle (24) and which connect the gripping part of the handle (24) or a flange (78). In addition, no motivation is given to choose such an orientation.

Claim 30 should be considered as patentably distinguishing over the device disclosed in the patent to Matechuk as well.

Finally, in regard to Claim 32, the Driggers reference discloses a safety element (44) that has a width, which is oriented perpendicular to an axis (3) of the handle (30), which is 3 to 4 times wider than a width, perpendicular to the axis (3), of the damping element (60).

In contrast, the safety element defined in new Claim 32 has at least one area which has a width, which is oriented perpendicular to

said axis and is three-times thinner than a width, which is oriented perpendicular to said axis, of the elastic, vibration damping element.

As the width of the safety element in the Driggers reference is wider than the damping element, and no motivation is given to change the dimensions or those elements, new Claim 32 can be seen as new and inventive over the Driggers reference.

Also, in the Matechuk reference, the rod (22), which the Examiner identified as safety element, is wider than the width of the so called damping element (76).

Claim 32 is also new over the Matechuk reference.

It is therefore respectfully submitted that Claims 11, 30 and 32 should be considered as patentably distinguishing over the art and should be allowed.

As for the dependent claims, these claims depend on Claim 11, they share its allowable features, and they should be allowed as well.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', with a long horizontal flourish extending to the right.

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